

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation )  
Against: )**

**WINSON FRANCIS KOO, M.D. )**

**Case No. 800-2014-002637**

**Physician's and Surgeon's )  
Certificate No. A116206 )**

**Respondent )**

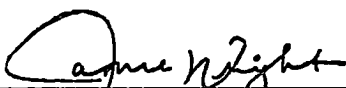
**DECISION**

**The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on August 11, 2017.**

**IT IS SO ORDERED: July 13, 2017.**

**MEDICAL BOARD OF CALIFORNIA**

  
\_\_\_\_\_  
**Jamie Wright, JD, Chair  
Panel A**

1 XAVIER BECERRA  
Attorney General of California  
2 JANE ZACK SIMON  
Supervising Deputy Attorney General  
3 ALICE W. WONG, State Bar No. 160141  
BRENDA P. REYES, State Bar No. 129718  
4 Deputy Attorneys General  
455 Golden Gate Avenue, Suite 11000  
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7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **WINSON FRANCIS KOO, M.D.**  
14 **710 Lawrence Expressway, Dept. 472**  
15 **Santa Clara, CA 95050**

16 **Physician's and Surgeon's Certificate**  
17 **No. A 116206**

18 Respondent.

Case No. 800-2014-002637

OAH No. 2017030279

19 **STIPULATED SETTLEMENT AND**  
20 **DISCIPLINARY ORDER**

21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
22 entitled proceedings that the following matters are true:

23 PARTIES

24 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
25 of California (Board). She brought this action solely in her official capacity and is represented in  
26 this matter by Xavier Becerra, Attorney General of the State of California, by Alice W. Wong and  
27 Brenda P. Reyes, Deputy Attorneys General.

28 2. Respondent Winson Francis Koo, M.D. (Respondent) is represented in this  
proceeding by attorney Thomas E. Still, Esq., whose address is: Hinshaw, Marsh, Still &  
Hinshaw, LLP, 12901 Saratoga Avenue, Saratoga, CA 95070.

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3. On or about March 16, 2011, the Board issued Physician's and Surgeon's Certificate No. A 116206 to Winson Francis Koo, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2014-002637, and will expire on September 30, 2018, unless renewed.

## JURISDICTION

4. Accusation No. 800-2014-002637 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on June 13, 2016. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2014-002637 is attached as Exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2014-002637. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2014-002637, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

## CONTINGENCY

12. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

## DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 116206 issued to Respondent Winson Francis Koo, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

Respondent shall serve the entire five (5) year term of probation and Respondent hereby waives his right to petition for early termination or modification of probation pursuant to Business and Professions Code section 2307.

1. COMMUNITY SERVICE - FREE SERVICES. Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval a community service plan in which Respondent shall, within the first 2 years of probation, provide 80 hours of free services (e.g., medical or nonmedical) to a community or non-profit organization. If the term of probation is designated for 2 years or less, the community service hours must be completed not later than 6 months prior to the completion of probation.

Prior to engaging in any community service, Respondent shall provide a true copy of the Decision to the chief of staff, director, office manager, program manager, officer, or the chief executive officer at every community or non-profit organization where Respondent provides community service and shall submit proof of compliance to the Board or its designee within 15 calendar days. This condition shall also apply to any change(s) in community service.

Community service performed prior to the effective date of the Decision shall not be accepted in fulfillment of this condition.

2. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

3. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in

1 advance by the Board or its designee. Respondent shall provide the approved course provider  
2 with any information and documents that the approved course provider may deem pertinent.  
3 Respondent shall participate in and successfully complete the classroom component of the course  
4 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully  
5 complete any other component of the course within one (1) year of enrollment. The medical  
6 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing  
7 Medical Education (CME) requirements for renewal of licensure.

8 A medical record keeping course taken after the acts that gave rise to the charges in the  
9 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
10 or its designee, be accepted towards the fulfillment of this condition if the course would have  
11 been approved by the Board or its designee had the course been taken after the effective date of  
12 this Decision.

13 Respondent shall submit a certification of successful completion to the Board or its  
14 designee not later than 15 calendar days after successfully completing the course, or not later than  
15 15 calendar days after the effective date of the Decision, whichever is later.

16 4. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of  
17 the effective date of this Decision, Respondent shall enroll in a professionalism program that  
18 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.  
19 Respondent shall participate in and successfully complete that program. Respondent shall  
20 provide any information and documents that the program may deem pertinent. Respondent shall  
21 successfully complete the classroom component of the program not later than six (6) months after  
22 Respondent's initial enrollment, and the longitudinal component of the program not later than the  
23 time specified by the program, but no later than one (1) year after attending the classroom  
24 component. The professionalism program shall be at Respondent's expense and shall be in  
25 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

26 A professionalism program taken after the acts that gave rise to the charges in the  
27 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
28 or its designee, be accepted towards the fulfillment of this condition if the program would have

1 been approved by the Board or its designee had the program been taken after the effective date of  
2 this Decision.

3 Respondent shall submit a certification of successful completion to the Board or its  
4 designee not later than 15 calendar days after successfully completing the program or not later  
5 than 15 calendar days after the effective date of the Decision, whichever is later.

6 5. PROFESSIONAL BOUNDARIES PROGRAM. Within 60 calendar days from the  
7 effective date of this Decision, Respondent shall enroll in a professional boundaries program  
8 approved in advance by the Board or its designee. Respondent, at the program's discretion, shall  
9 undergo and complete the program's assessment of Respondent's competency, mental health  
10 and/or neuropsychological performance, and at minimum, a 24 hour program of interactive  
11 education and training in the area of boundaries, which takes into account data obtained from the  
12 assessment and from the Decision, Accusation and any other information that the Board or its  
13 designee deems relevant. The program shall evaluate Respondent at the end of the training and  
14 the program shall provide any data from the assessment and training as well as the results of the  
15 evaluation to the Board or its designee.

16 Failure to complete the entire program not later than six (6) months after Respondent's  
17 initial enrollment shall constitute a violation of probation unless the Board or its designee agrees  
18 in writing to a later time for completion. Based on Respondent's performance in and evaluations  
19 from the assessment, education, and training, the program shall advise the Board or its designee  
20 of its recommendation(s) for additional education, training, psychotherapy and other measures  
21 necessary to ensure that Respondent can practice medicine safely. Respondent shall comply with  
22 program recommendations. At the completion of the program, Respondent shall submit to a final  
23 evaluation. The program shall provide the results of the evaluation to the Board or its designee.  
24 The professional boundaries program shall be at Respondent's expense and shall be in addition to  
25 the Continuing Medical Education (CME) requirements for renewal of licensure.

26 The program has the authority to determine whether or not Respondent successfully  
27 completed the program.

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1 A professional boundaries course taken after the acts that gave rise to the charges in the  
2 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
3 or its designee, be accepted towards the fulfillment of this condition if the course would have  
4 been approved by the Board or its designee had the course been taken after the effective date of  
5 this Decision.

6 6. PSYCHIATRIC EVALUATION. Within 30 calendar days of the effective date of  
7 this Decision, and on whatever periodic basis thereafter may be required by the Board or its  
8 designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological  
9 testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall  
10 consider any information provided by the Board or designee and any other information the  
11 psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its  
12 designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not  
13 be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all  
14 psychiatric evaluations and psychological testing.

15 Respondent shall comply with all restrictions or conditions recommended by the evaluating  
16 psychiatrist within 15 calendar days after being notified by the Board or its designee.

17 7. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision,  
18 Respondent shall submit to the Board or its designee for prior approval the name and  
19 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who  
20 has a doctoral degree in psychology and at least five years of postgraduate experience in the  
21 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall  
22 undergo and continue psychotherapy treatment, including any modifications to the frequency of  
23 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

24 The psychotherapist shall consider any information provided by the Board or its designee  
25 and any other information the psychotherapist deems relevant and shall furnish a written  
26 evaluation report to the Board or its designee. Respondent shall cooperate in providing the  
27 psychotherapist with any information and documents that the psychotherapist may deem  
28 pertinent.



Respondent shall have the treating psychotherapist submit quarterly status reports to the Board or its designee. The Board or its designee may require Respondent to undergo psychiatric evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of probation, Respondent is found to be mentally unfit to resume the practice of medicine without restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the period of probation shall be extended until the Board determines that Respondent is mentally fit to resume the practice of medicine without restrictions.

Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

8. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice where: 1) Respondent merely shares office space with another physician but is not affiliated for purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that location.

If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume practice until an appropriate practice setting is established.

If, during the course of the probation, the Respondent's practice setting changes and the Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent shall notify the Board or its designee within five (5) calendar days of the practice setting change. If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the practice setting change, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume practice until an appropriate practice setting is established.

9. THIRD PARTY CHAPERONE. During probation, Respondent shall have a third party chaperone present while consulting, examining or treating female patients. Respondent

1 shall, within 30 calendar days of the effective date of the Decision, submit to the Board or its  
2 designee for prior approval name(s) of persons who will act as the third party chaperone.

3 If Respondent fails to obtain approval of a third party chaperone within 60 calendar days of  
4 the effective date of this Decision, Respondent shall receive a notification from the Board or its  
5 designee to cease the practice of medicine within three (3) calendar days after being so notified.  
6 Respondent shall cease the practice of medicine until a chaperone is approved to provide  
7 monitoring responsibility.

8 Each third party chaperone shall sign (in ink or electronically) and date each patient  
9 medical record at the time the chaperone's services are provided. Each third party chaperone  
10 shall read the Decision and the Accusation, and fully understand the role of the third party  
11 chaperone.

12 Respondent shall maintain a log of all patients seen for whom a third party chaperone is  
13 required. The log shall contain the: 1) patient initials, address and telephone number; 2) medical  
14 record number; and 3) date of service. Respondent shall keep this log in a separate file or ledger,  
15 in chronological order, shall make the log available for immediate inspection and copying on the  
16 premises at all times during business hours by the Board or its designee, and shall retain the log  
17 for the entire term of probation.

18 Respondent is prohibited from terminating employment of a Board-approved third party  
19 chaperone solely because that person provided information as required to the Board or its  
20 designee.

21 If the third party chaperone resigns or is no longer available, Respondent shall, within five  
22 (5) calendar days of such resignation or unavailability, submit to the Board or its designee, for  
23 prior approval, the name of the person(s) who will act as the third party chaperone. If Respondent  
24 fails to obtain approval of a replacement chaperone within 30 calendar days of the resignation or  
25 unavailability of the chaperone, Respondent shall receive a notification from the Board or its  
26 designee to cease the practice of medicine within three (3) calendar days after being so notified.  
27 Respondent shall cease the practice of medicine until a replacement chaperone is approved and  
28 assumes monitoring responsibility.

Respondent shall provide written notification to Respondent's female patients that a third party chaperone shall be present during all consultations, examination, or treatment with female patients. Respondent shall maintain in the patient's file a copy of the written notification, shall make the notification available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the notification for the entire term of probation. This particular notice requirement shall not apply so long as Respondent is working for The Permanente Medical Group.

10. NOTIFICATION. Within seven (7) days of the effective date of this Decision, Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

11. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES. During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

12. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

13. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

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1       14.   GENERAL PROBATION REQUIREMENTS.

2       Compliance with Probation Unit

3       Respondent shall comply with the Board's probation unit.

4       Address Changes

5       Respondent shall, at all times, keep the Board informed of Respondent's business and  
6       residence addresses, email address (if available), and telephone number. Changes of such  
7       addresses shall be immediately communicated in writing to the Board or its designee. Under no  
8       circumstances shall a post office box serve as an address of record, except as allowed by Business  
9       and Professions Code section 2021(b).

10      Place of Practice

11      Respondent shall not engage in the practice of medicine in Respondent's or patient's place  
12      of residence, unless the patient resides in a skilled nursing facility or other similar licensed  
13      facility.

14      License Renewal

15      Respondent shall maintain a current and renewed California physician's and surgeon's  
16      license.

17      Travel or Residence Outside California

18      Respondent shall immediately inform the Board or its designee, in writing, of travel to any  
19      areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty  
20      (30) calendar days.

21      In the event Respondent should leave the State of California to reside or to practice,  
22      Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of  
23      departure and return.

24      15.   INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be  
25      available in person upon request for interviews either at Respondent's place of business or at the  
26      probation unit office, with or without prior notice throughout the term of probation.

27      16.   NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
28      its designee in writing within 15 calendar days of any periods of non-practice lasting more than

1 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
2 defined as any period of time Respondent is not practicing medicine as defined in Business and  
3 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct  
4 patient care, clinical activity or teaching, or other activity as approved by the Board. If  
5 Respondent resides in California and is considered to be in non-practice, Respondent shall  
6 comply with all terms and conditions of probation. All time spent in an intensive training  
7 program which has been approved by the Board or its designee shall not be considered non-  
8 practice and does not relieve Respondent from complying with all the terms and conditions of  
9 probation. Practicing medicine in another state of the United States or Federal jurisdiction while  
10 on probation with the medical licensing authority of that state or jurisdiction shall not be  
11 considered non-practice. A Board-ordered suspension of practice shall not be considered as a  
12 period of non-practice.

13 In the event Respondent's period of non-practice while on probation exceeds 18 calendar  
14 months, Respondent shall successfully complete the Federation of State Medical Boards' Special  
15 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program  
16 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model  
17 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

18 Respondent's period of non-practice while on probation shall not exceed two (2) years.

19 Periods of non-practice will not apply to the reduction of the probationary term.

20 Periods of non-practice for a Respondent residing outside of California will relieve  
21 Respondent of the responsibility to comply with the probationary terms and conditions with the  
22 exception of this condition and the following terms and conditions of probation: Obey All Laws;  
23 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or  
24 Controlled Substances; and Biological Fluid Testing.

25 17. COMPLETION OF PROBATION. Respondent shall comply with all financial  
26 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
27 completion of probation. Upon successful completion of probation, Respondent's certificate shall  
28 be fully restored.

1       18. VIOLATION OF PROBATION. Failure to fully comply with any term or condition  
2 of probation is a violation of probation. If Respondent violates probation in any respect, the  
3 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and  
4 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke  
5 Probation, or an Interim Suspension Order is filed against Respondent during probation, the  
6 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall  
7 be extended until the matter is final.

8       19. LICENSE SURRENDER. Following the effective date of this Decision, if  
9 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
10 the terms and conditions of probation, Respondent may request to surrender his or her license.  
11 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
12 determining whether or not to grant the request, or to take any other action deemed appropriate  
13 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
14 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its  
15 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
16 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
17 application shall be treated as a petition for reinstatement of a revoked certificate.

18       20. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
19 with probation monitoring each and every year of probation, as designated by the Board, which  
20 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
21 California and delivered to the Board or its designee no later than January 31 of each calendar  
22 year.

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DATED:



DATED:

Hamme &

Dated: June 7, 2017

Brenda P. Reyes

STIPULATED SETTLEMENT (800-2014-002637)

**Exhibit A**

**Accusation No. 800-2014-002637**



1 KAMALA D. HARRIS  
Attorney General of California  
2 JANE ZACK SIMON  
Supervising Deputy Attorney General  
3 BRENDA P. REYES  
Deputy Attorney General  
4 State Bar No. 129718  
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Telephone: (415) 703-5541  
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*Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO JUNE 13, 2016  
BY [Signature] ANALYST

8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 800-2014-002637

12 **Winson Francis Koo, M.D.**  
13 **710 Lawrence Expressway, Dept. 372**  
**Santa Clara, CA 95050**

**ACCUSATION**

14 Physician's and Surgeon's Certificate  
15 No. A 116206,

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official  
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
22 Affairs (Board).

23 2. On or about March 16, 2011, the Medical Board issued Physician's and Surgeon's  
24 Certificate Number A 116206 to Winson Francis Koo, M.D. (Respondent). The Physician's and  
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein  
26 and will expire on September 30, 2016, unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2004 of the Code states, in relevant part:

“The board shall have the responsibility for the following:

“(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

“(b) The administration and hearing of disciplinary actions.

“(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

“(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

“(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.”

5. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

6. Section 2234 of the Code states, in relevant part:

“The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

“(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

“(b) Gross negligence.

“(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

1       “(1) An initial negligent diagnosis followed by an act or omission medically appropriate  
2 for that negligent diagnosis of the patient shall constitute a single negligent act.

3       “(2) When the standard of care requires a change in the diagnosis, act, or omission that  
4 constitutes the negligent act described in paragraph (1), including, but not limited to, a  
5 reevaluation of the diagnosis or a change in treatment; and the licensee's conduct departs from the  
6 applicable standard of care, each departure constitutes a separate and distinct breach of the  
7 standard of care.”

8       7.     Section 2266 of the Code states: “The failure of a physician and surgeon to maintain  
9 adequate and accurate records relating to the provision of services to their patients constitutes  
10 unprofessional conduct.”

11       8.     Section 726 of the Code states:

12       "The commission of any act of sexual abuse, misconduct, or relations with a patient, client,  
13 or customer constitutes unprofessional conduct and grounds for disciplinary action for any person  
14 licensed under this division, under any initiative act referred to in this division and under Chapter  
15 17 (commencing with Section 9000) of Division 3.

16       "This section shall not apply to sexual contact between a physician and surgeon and his or  
17 her spouse or person in an equivalent domestic relationship when that physician and surgeon  
18 provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person  
19 in an equivalent domestic relationship."

### 20                               **FIRST CAUSE FOR DISCIPLINE**

#### 21                               **(Unprofessional Conduct: Gross Negligence/Repeated Negligent Acts)**

22       9.     Respondent's certificate to practice medicine is subject to disciplinary action for  
23 unprofessional conduct under section 2234, subdivision (b) and/or section 2234, subdivision (c),  
24 of the Code in that respondent was grossly negligent and/or he engaged in repeated negligent acts  
25 in his care and treatment of Patient VY. The circumstances are as follows:

1       10. On or about December 18, 2013, Patient VY,<sup>1</sup> a 20-year-old woman, e-mailed her  
2 OB/GYN physician, Dr. B., regarding a two week history of nausea, fatigue, body aches, swelling  
3 of the feet and ankles, headaches, sharp pelvic and lower abdominal pain, breast tenderness and  
4 mood swings. She was worried she was pregnant, though she reported taking two home  
5 pregnancy tests that were both negative. Dr. B reassured VY that because she could feel her IUD  
6 strings and had negative pregnancy tests, she was not pregnant. Dr. B advised VY that her  
7 symptoms could be due to a viral syndrome, dehydration, or stress. Dr. B recommended VY  
8 drink fluids, take Tylenol, and contact Respondent if the symptoms persisted.

9       11. On December 23, 2013, Patient VY appeared at Respondent's office at Kaiser in  
10 Santa Clara, CA for a scheduled appointment regarding a complaint of low back pain. VY was  
11 placed in an examination room where a medical assistant took her vital signs. Respondent then  
12 entered the room and asked VY why she was there. VY reported she had back pain. Respondent  
13 told her she needed to undress, gave her a gown, and left the room.

14       12. VY removed her clothing above the waist, leaving on her bra, and put on the gown  
15 with the opening in the back. When Respondent returned to the examination room, he told VY  
16 that she needed to also remove her boots and pants. Respondent sat at a computer in the room,  
17 with his back to VY, while VY removed her boots and pants. VY kept on her underwear.

18       13. VY reported having low back pain for several days. She denied injury initiated the  
19 pain. She reported the pain was localized to her thoracic and lumbar spine, radiating down to  
20 bilateral buttocks. She denied having numbness, tingling, and weakness. VY reported taking  
21 ibuprofen and heat/ice without improvement. VY reported that she is required to do some lifting  
22 at work and requested a note for time off from work. The documented history on this date notes  
23 VY's recent e-mail communication with her OB/GYN doctor.

24       14. While VY was standing, Respondent examined her back from the shoulders down and  
25 had her bend over to see how far she could bend. Respondent asked if he could undo her bra and  
26 VY said yes. Respondent unfastened VY's bra and continued to examine her back. Respondent

27       <sup>1</sup> The patient's identity is kept confidential to protect her privacy but will be revealed to  
28 Respondent in discovery.

1 then asked VY to lie on the exam table on her back. He examined her abdomen and sides, asking  
2 if she hurt anywhere.

3 15. During straight leg raise and piriformis examination, Respondent noted vaginal  
4 bleeding on VY's underwear. VY reported that she was using a folded napkin because she had  
5 run out of hygiene products. Respondent had VY roll onto her stomach. He had her extend her  
6 back and felt around her back and buttock, asking where it hurt.

7 16. Respondent asked VY about her intrauterine device (IUD) and whether she had any  
8 problems with it. VY reported that she did not have any problems. Respondent asked if she  
9 could feel the IUD string and VY said that she could. Respondent then removed VY's underwear  
10 and asked if he could check. VY said okay. The napkin VY had in her underwear fell onto the  
11 examination table. Respondent picked up the napkin with his bare hand and tossed it into the  
12 trash. Respondent gave VY a tampon and a pad.

13 17. Respondent washed his hands and put some lubricant on his fingers. He did not put  
14 on a glove. Respondent inserted multiple fingers into VY's vagina and felt around, commenting  
15 on the length of the IUD string. Respondent asked VY if her boyfriend could feel the string and  
16 she said yes. Respondent suggested the next time VY saw her OB/GYN she could ask to have the  
17 string cut so her boyfriend would not feel it. With his fingers still in VY's vagina, Respondent  
18 asked VY if she liked foreplay and if she liked anal and oral sex. Respondent asked VY whether  
19 she and her boyfriend engaged in oral sex. With his fingers still in VY's vagina, Respondent  
20 leaned over so that his face was near her vagina and asked, "can I?" VY said no. Respondent  
21 then removed his fingers from her vagina and wiped them on her gown. Respondent continued  
22 touching VY's vaginal area and looking at her as though seeking a reaction.

23 18. Respondent then gave VY a booklet on back exercises and left the room. While VY  
24 was still reviewing the booklet while seated on the examination table, Respondent returned to the  
25 room. He then began feeling her left leg, ran his hand up her leg and underneath the gown, felt  
26 her breast and rubbed her nipple. Respondent commented about loving to touch her like that  
27 while she was reading. VY asked Respondent if she needed to call someone or speak with his  
28 manager. Respondent said no and quickly pulled his hand away. Respondent was apologetic and

1 told VY that she was giving him "mixed signals." VY denied Respondent's allegation about  
2 mixed signals and told Respondent that he needed to leave. Respondent left the room and VY got  
3 dressed.

4 19. VY left the examination room and got back into the registration line to report  
5 Respondent's misconduct. An office employee, HL, saw that VY appeared upset and asked her  
6 what was wrong. VY began to cry and HL took VY back into the examination room area. VY  
7 told HL that respondent sexually assaulted her. HL then took VY into an examination room  
8 where they talked. HL then left the room and closed the door. Shortly after, Respondent entered  
9 the room and closed the door. VY told him to leave. Respondent began to speak, but VY  
10 grabbed her things and left the room. As she walked out, Respondent attempted to stop her.  
11 When she exited the room, VY was stopped by HL. VY reported that respondent had entered the  
12 room. HL placed VY in another examination room.

13 20. The police were called. VY and respondent were separately interviewed by officers  
14 of the Santa Clara Police Department.

15 21. Respondent prepared his progress note of VY's visit the following day, December 24,  
16 2013, after he had been interviewed by the police. Physical examination was notable for the  
17 absence of pain with mild sternal pressure, normal abdominal examination, and normal brief  
18 neurological examination of the lower extremities. Spine examination revealed limited spine  
19 extension to zero degrees, pain with motion, tenderness of the lumbar paraspinal muscles,  
20 negative straight leg raises, and negative piriformis pain. Respondent's assessment was low back  
21 pain. Respondent noted that VY denied vaginal discharge and that she would follow up with her  
22 gynecologist for bleeding or IUD concerns; that VY declined recommended physical therapy; that  
23 VY was taught back lordosis exercises; and, that heat/ice and NSAIDs were recommended.  
24 Respondent provided VY with a modified work restriction for one week. Respondent did not  
25 document a genital or breast examination.

26 22. At the time of his interview with officers of the Santa Clara Police Department on  
27 December 23, 2013, Respondent reported that during the examination of VY, he took with his  
28 bare hand the paper product that VY had been using as a sanitary pad and threw it away. At his

1 interview with the Medical Board on June 2, 2015, respondent denied that he ever touched the  
2 paper product. Respondent reported at both his interview with the Santa Clara Police Department  
3 and with the Medical Board that during the examination of VY he became concerned about the  
4 possibility of gynecological pathology, including pelvic inflammatory disease, as the cause of  
5 VY's vaginal bleeding and/or her back pain. Respondent failed to document any such concerns in  
6 the patient record.

7 23. Thus, Respondent is guilty of gross negligence and/or repeated negligent acts in his  
8 care and treatment of Patient VY, including but not limited to the following acts and/or  
9 omissions:

10 A. Respondent remained in the examination room while Patient VY removed her pants  
11 and boots in preparation for examination.

12 B. Respondent unfastened VY's brassier and/or he removed her underwear during the  
13 examination.

14 C. Respondent took a sexual and/or gynecological history from VY during the course of  
15 physical examination.

16 D. Respondent took a sexual and/or gynecological history from VY with his fingers in  
17 her vagina.

18 E. Respondent failed to provide a sheet and/or to cover VY's pelvic area during straight  
19 leg raise testing.

20 F. Respondent touched VY's genital area and/or penetrated her vagina with his fingers  
21 without wearing examination gloves.

22 G. Respondent touched the paper product VY used as a sanitary pad with an ungloved  
23 hand.

24 H. Respondent asked VY if he could perform a sexual act on her.

25 I. Respondent made sexually inappropriate remarks and/or he inquired into VY's sexual  
26 practices.

27 J. Respondent penetrated VY's vagina with his fingers and/or he fondled her leg and/or  
28 he fondled her breast.

1 K. Respondent told VY that she was giving him "mixed signals" to explain his sexual  
2 misconduct.

3 L. Respondent failed to immediately bring a female chaperone into the examination  
4 room if he believed the patient was sending him mixed signals.

5 M. Respondent performed and documented compression of VY's sternum in the absence  
6 of any complaint of chest pain and/or Respondent failed to document an indication for  
7 compression of the sternum.

8 N. Respondent failed to take a history and document last menstrual period and frequency  
9 and volume of vaginal bleeding.

10 O. Respondent failed to document a sexual history.

11 P. Respondent failed to include in his assessment any discussion of the possibility of  
12 serious gynecological pathology, including pelvic inflammatory disease, or how it was excluded.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Sexual Misconduct)**

15 24. The allegations of Paragraphs 10 through 22, above, are incorporated herein by  
16 reference as if fully set forth.

17 25. Respondent's certificate to practice medicine is subject to disciplinary action for  
18 unprofessional conduct under section 726 of the Code in that Respondent engaged in acts of  
19 sexual abuse and/or sexual misconduct with Patient VY.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Failure to Maintain Adequate and Accurate Records)**

22 26. The allegations of Paragraphs 10 through 22, above, are incorporated herein by  
23 reference as if fully set forth.

24 27. Respondent's certificate to practice medicine is subject to disciplinary action for  
25 unprofessional conduct under section 2266 of the Code in that Respondent failed to maintain  
26 adequate and accurate records.

27 ///

28 ///



**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

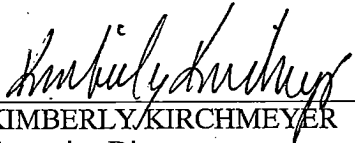
1. Revoking or suspending Physician's and Surgeon's Certificate Number A 116206, issued to Winson Francis Koo, M.D.;

2. Revoking, suspending or denying approval of Winson Francis Koo, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;

3. Ordering Winson Francis Koo, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and,

4. Taking such other and further action as deemed necessary and proper.

DATED: June 13, 2016

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

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